

AMENDED IN SENATE AUGUST 7, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2327**

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**Introduced by Assembly Member Arambula**

February 22, 2006

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An act to amend Section 226 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2327, as amended, Arambula. Labor contractors.

Existing law requires an employer to furnish each employee with an accurate itemized statement showing, among other things, the name and address of the legal entity that is the employer. Existing law provides that a knowing and intentional violation of this provision is a misdemeanor.

This bill would require an employer who is a farm labor contractor, as defined, to disclose in the itemized statement the name and address of the legal entity that secured the employer's services. In addition, ~~this~~ *the* bill would make technical, nonsubstantive changes.

Because a willful violation of the bill's provisions would be a crime, ~~this~~ *the* bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment,

1 upon reasonable request to the employer. The employer may take  
2 reasonable steps to assure the identity of a current or former  
3 employee. If the employer provides copies of the records, the  
4 actual cost of reproduction may be charged to the current or  
5 former employee.

6 (c) An employer who receives a written or oral request to  
7 inspect or copy records pursuant to subdivision (b) pertaining to  
8 a current or former employee shall comply with the request as  
9 soon as practicable, but no later than 21 calendar days from the  
10 date of the request. A violation of this subdivision is an  
11 infraction. Impossibility of performance, not caused by or a result  
12 of a violation of law, shall be an affirmative defense for an  
13 employer in any action alleging a violation of this subdivision.  
14 An employer may designate the person to whom a request under  
15 this subdivision will be made.

16 (d) This section does not apply to any employer of any person  
17 employed by the owner or occupant of a residential dwelling  
18 whose duties are incidental to the ownership, maintenance, or use  
19 of the dwelling, including the care and supervision of children, or  
20 whose duties are personal and not in the course of the trade,  
21 business, profession, or occupation of the owner or occupant.

22 (e) An employee suffering injury as a result of a knowing and  
23 intentional failure by an employer to comply with subdivision (a)  
24 is entitled to recover the greater of all actual damages or fifty  
25 dollars (\$50) for the initial pay period in which a violation occurs  
26 and one hundred dollars (\$100) per employee for each violation  
27 in a subsequent pay period, not exceeding an aggregate penalty  
28 of four thousand dollars (\$4,000), and is entitled to an award of  
29 costs and reasonable attorney's fees.

30 (f) A failure by an employer to permit a current or former  
31 employee to inspect or copy records within the time set forth in  
32 subdivision (c) entitles the current or former employee or the  
33 Labor Commissioner to recover a seven hundred fifty dollar  
34 (\$750) penalty from the employer.

35 (g) *The listing by an employer of the name and address of the*  
36 *legal entity that secured the services of the employer in the*  
37 *itemized statement required by subdivision (a) shall not create*  
38 *any liability on the part of that legal entity.*

1 (h) An employee may also bring an action for injunctive relief  
2 to ensure compliance with this section, and is entitled to an  
3 award of costs and reasonable attorney's fees.

4 ~~(h)~~

5 (i) This section does not apply to the state, to any city, county,  
6 city and county, district, or to any other governmental entity,  
7 except that if the state or a city, county, city and county, district,  
8 or other governmental entity furnishes its employees with a  
9 check, draft, or voucher paying the employee's wages, the state  
10 or a city, county, city and county, district, or other governmental  
11 entity shall, by January 1, 2008, use no more than the last four  
12 digits of the employee's social security number or shall use an  
13 employee identification number other than the social security  
14 number on the itemized statement provided with the check, draft,  
15 or voucher.

16 SEC. 2. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 the only costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the  
21 penalty for a crime or infraction, within the meaning of Section  
22 17556 of the Government Code, or changes the definition of a  
23 crime within the meaning of Section 6 of Article XIII B of the  
24 California Constitution.